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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,316	03/11/2004	Haruyuki Toda	04170/LH	1759

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER

LAURITZEN, AMANDA L

ART UNIT	PAPER NUMBER
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3737

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/800,316

Applicant(s)

TODA, HARUYUKI

Examiner

Amanda L. Lauritzen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

Amendments to the drawings dated 2/1/2007 have been entered and all previous objections to the drawings have been withdrawn.

Response to Arguments

Applicant's arguments filed 1 February 2007 have been fully considered but they are not persuasive.

1. Applicant points out that claims 1, 3-5 and 7 have been amended to replace the term "tool" with the term "section" to overcome rejections under 35 U.S.C. 101, but regardless the claimed invention is still directed to non-statutory subject matter. The tools and/or sections of the claims are directed to computer program(s) and since they are not cited in conjunction with any tangible computer-readable medium, the subject matter of claims 1 and 3-6 is rendered non-statutory, and as such examiner maintains rejection under 35 U.S.C. 101. Further, the limitations concerning a display that were previously contained in cancelled claim 2 and have been added to claim 1 appear to in fact be directed to a display configuration rather than a tangible display unit, as noted in the previous Office action.

2. Applicant suggests that Takasawa does not teach or suggest a first specifying section with a display which displays a received medical image in thumbnail form or in a list or that the displayed medical image is sorted to specify the first display order. Examiner respectfully disagrees and calls attention to Fig. 4 and 8, which clearly show display of images in thumbnail form and in both an image list and an alphanumeric list in photographic object display area 117.

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3. Applicant points out that in the invention of Takasawa the doctor specifies an order before radiographing is performed, but this does not distinguish from the claims. As presently claimed the ordering could be performed either before or after radiographic images are acquired.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119. The certified copy has been filed in parent Application No. JP2003-078079, filed on March 20, 2003.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Given the broadest reasonable interpretation, the sections of the claims are directed to computer program(s) and since they are not stated in conjunction with any tangible computer-readable medium, the subject matter of the claims is rendered non-statutory. Further, the limitations concerning a display that were previously contained in cancelled claim 2 and have been added to claim 1 appear to in fact be directed to a display configuration rather than a tangible display unit.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The apparatus claims are not clear in reciting specific structure and consequently the patent protection desired by the applicant is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Takasawa (U.S. Patent No. 6,501,827).

Regarding claims 1-7, Takasawa discloses a medical image processing apparatus and method that receives medical image information from another apparatus that comprises a first specifying tool for a first image sequence (instruction device of col. 5, line 8), a second specifying tool for determining a display order (changing device of col. 5, line 10) and a correcting tool to conform the order of images to the original display order (the output device of col. 5, line 11 allows for output in the first image sequence as indicated by col. 13, lines 34-35). Furthermore, the display of Takasawa presents images in thumbnail or list form and includes a specifying tool for sorting (Figs. 4, 8 and col. 12, lines 24-29). The permission of starting image

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output of each examination and determining image order for a new order appropriate for display is encompassed by image order conversion (Fig. 10 and col. 12, lines 24-29). The invention of Takasawa converts the image order based upon request information received (col. 12, lines 5-7).

Regarding claim 5, Takasawa further discloses a storage tool for various predetermined image processing parameters and photographic conditions, including a presetting tool for the display order of images (computer-executable storage medium and instruction device of col. 5, lines 25-31). A determining tool (the information processing apparatus of col. 6, line 51) selects the appropriate condition file according to the input of an examination ID (col. 6, lines 50-54).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Argiro et al. Advanced diagnostic viewer employing automatic protocol selection for volume-rendering imaging (U.S. Patent No. 5,986,662); Parulski et al. Method and apparatus for controlling rapid display of multiple images from a digital image database (U.S. Patent No. 5,414,811); Stockham et al. Computerized apparatus and method for displaying X-rays and the like for radiological analysis and manipulation and transmission of data (U.S. Patent No. 6,081,267).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

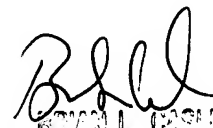
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda L. Lauritzen whose telephone number is (571) 272-4303. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ALL

4/11/2007


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